

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 441**

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**Introduced by Assembly Member Parra**

February 16, 2007

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An act to add Section ~~667.18~~ 1203.077 to the Penal Code, relating to sentencing.

LEGISLATIVE COUNSEL'S DIGEST

AB 441, as amended, Parra. Sentencing:—~~enhancements:~~ methamphetamine.

*Under existing law, persons sentenced to certain misdemeanors may be sentenced to probation.*

*This bill would provide that any person convicted of selling methamphetamine who is granted probation shall be confined in a county jail for at least 120 days as a condition of probation. That minimum sentence would be required to be imposed in every case unless the court finds that it is in the interest of justice to not impose that sentence, and states on the record the circumstances indicating why justice would be served by not imposing that minimum jail sentence.*

~~Existing law establishes various sentencing enhancements, as specified.~~

~~This bill would impose an additional 3-year term of imprisonment in the state prison for persons who commit a felony while under the influence of methamphetamine.~~

~~By creating an additional punishment for criminal conduct, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~yes~~ no.

*The people of the State of California do enact as follows:*

1     SECTION. 1. ~~Section 1203.077 is added to the Penal Code, to~~  
2     ~~read:~~

3     ~~1203.077. Any person convicted of violating Section 11379 of~~  
4     ~~the Health and Safety Code, relating to the sale of~~  
5     ~~methamphetamine, who is granted probation, shall be confined in~~  
6     ~~a county jail for at least 120 days as a condition of probation. That~~  
7     ~~minimum sentence shall be imposed in every case unless the court~~  
8     ~~finds that it is in the interest of justice to not impose that sentence,~~  
9     ~~and states on the record the circumstances indicating why justice~~  
10    ~~would be served by not imposing that minimum jail sentence.~~

11    ~~SECTION 1. Section 667.18 is added to the Penal Code, to~~  
12    ~~read:~~

13    ~~667.18. (a) Any person who commits a felony while under the~~  
14    ~~influence of methamphetamine shall be punished by an additional~~  
15    ~~term of imprisonment of three years in the state prison, to be served~~  
16    ~~consecutive to the term imposed for the felony.~~

17    ~~(b) In order to impose the term specified in subdivision (a), the~~  
18    ~~facts supporting the enhancement shall be pled and proved at trial,~~  
19    ~~or admitted by the defendant.~~

20    ~~SEC. 2. No reimbursement is required by this act pursuant to~~  
21    ~~Section 6 of Article XIII B of the California Constitution because~~  
22    ~~the only costs that may be incurred by a local agency or school~~  
23    ~~district will be incurred because this act creates a new crime or~~  
24    ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
25    ~~for a crime or infraction, within the meaning of Section 17556 of~~  
26    ~~the Government Code, or changes the definition of a crime within~~  
27    ~~the meaning of Section 6 of Article XIII B of the California~~  
28    ~~Constitution.~~

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